

Christopher M. Humes Esq., Nevada Bar No. 12782  
William D. Nobriga, Esq., Nevada Bar No. 14931  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106-4614  
Telephone: 702.382.2101  
Facsimile: 702.382.8135  
Email: [chumes@bhfs.com](mailto:chumes@bhfs.com)  
[wnobriga@bhfs.com](mailto:wnobriga@bhfs.com)

*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

BOARD OF TRUSTEES OF THE CONSTRUCTION INDUSTRY AND LABORERS HEALTH AND WELFARE TRUST; THE BOARD OF TRUSTEES OF THE CONSTRUCTION INDUSTRY AND LABORERS JOINT PENSION TRUST; THE BOARD OF TRUSTEES OF THE CONSTRUCTION INDUSTRY AND LABORERS VACATION TRUST; and THE BOARD OF TRUSTEES OF THE SOUTHERN NEVADA LABORERS LOCAL 872 TRAINING TRUST.

**Plaintiffs,**

V.

SUNDAY RIVER CORP., a Nevada corporation,

**Defendant.**

Case No.: 2:24-cv-01812-RFB-EJY

**ORDER GRANTING PLAINTIFFS'  
MOTION FOR ALTERNATIVE  
SERVICE OF PROCESS AND  
MOTION TO EXTEND TIME TO  
SERVE PROCESS**

Presently before the Court is Plaintiffs' Motion for Alternative Service of Process and Motion to Extend Time to Serve Process (the "Motion"). Being fully advised, and good cause appearing the Court finds and orders as follows:

1  
**THE COURT FINDS AND CONCLUDES** that Plaintiffs have diligently attempted to  
 2 serve Sunday River Corp. (“Sunday River”) to no avail. The Trust Funds have attempted to serve  
 3 Sunday River at three different known addresses, multiple times. Sunday River and its registered  
 4 agents, officers, and directors, appear to be actively evading service, making personal service  
 5 impracticable.

6  
**THE COURT FURTHER FINDS AND CONCLUDES** that given the impracticability  
 7 of personally serving Sunday River, alternative service is proper. Federal Rule of Civil Procedure  
 8 4(e)(1) authorizes service of process as “prescribed in a state statute or rule.” *Omni Capital Int’l,*  
 9 *Ltd. v. Ruldolf Wolff & Co., Ltd.*, 484 U.S. 97, 105 (1987). Nevada Rule of Civil Procedure  
 10 4.2(c)(1)(A) provides for two methods of service for a corporation formed under the laws of the  
 11 State of Nevada: (1) a plaintiff may serve the Nevada corporation’s registered agent; or (2) a  
 12 plaintiff may serve “any officer or director of [the Nevada] corporation.” If service cannot be  
 13 effectuated through an officer or director of the corporation, or through the registered agent, then,  
 14 with court approval, plaintiffs may serve the “Nevada Secretary of State in the entity’s . . . stead.”  
 15 Nev. R. Civ. P. 4.2(c)(3); *see also DLJ Mortg. Cap., Inc. v. Old Republic Title Ins. Grp., Inc.*, No.  
 16 2:20-cv-01662-KJD-VCF, 2021 WL 1911342, at \*2 (D. Nev. Apr. 15, 2021) (“Rule 4.2(c)(3)  
 17 allows for service upon the defendant by way of the Secretary of State.”). To be allowed to serve  
 18 the Nevada Secretary State in the stead of a corporate defendant, plaintiffs must file an affidavit  
 19 that “(1) sets forth facts demonstrating Plaintiff’s good faith attempts to locate and serve the  
 20 entity; (2) explains the reasons why service could not be made; and (3) states the last-known  
 21 address of the entity or its agents.” *Fisher v. TheVegasPackage.com, Inc.*, No. 2:19-cv-01613-  
 22 JAD-VCF, 2019 WL 6828295, at \*2 (D. Nev. Dec. 12, 2019) (citing Nev. R. Civ. P.  
 23 4.2(c)(3)(A)(i)-(iii)).

24  
 In this case, as mentioned above, Plaintiffs have shown that they diligently attempted to  
 25 locate and serve Sunday River both through its registered agent and through its officers and  
 26 directors. Plaintiffs have also provided a declaration that: (1) sets forth sufficient facts that  
 27 demonstrate their good faith attempts to locate and serve Sunday River; (2) explains why service

1 on Sunday River's registered agents, officers, and directors could not be made; and (3) states the  
 2 last known address of Sunday River and its registered agents, officers, and directors. Accordingly,  
 3 alternative service on Sunday River through the Nevada Secretary of State is proper.

4       **THE COURT FURTHER FINDS AND CONCLUDES** that good cause exists to extend  
 5 the time to service, given the impracticability of personally serving Sunday River. Federal Rule of  
 6 Civil Procedure 4(m) provides that "if a plaintiff shows 'good cause' for the failure to serve a  
 7 defendant within 90 days after the complaint is filed, 'the court must extend the time for service  
 8 for an appropriate period.'" *Signature Surgery Ctr. LLC v. Cel Servs. Grp., Inc.*, No. 2:21-cv-  
 9 00215-JCM-EJY, 2022 WL 1432444, at \*1 (D. Nev. Apr. 5, 2022). Good cause to extend time to  
 10 sever process exists "where a plaintiff has shown *diligent efforts to effect service.*" *Id.* (emphasis  
 11 added) (quoting *Mitchell v. City of Henderson*, Case No. 2:13-cv-01154-APG-CWH, 2015 WL  
 12 427835, at \*7 (D. Nev. Feb. 2, 2015)). Diligent efforts to effectuate service include, but are not  
 13 limited to, hiring a process server to locate the defendants, searching the public records to locate  
 14 the defendants, and utilizing attorneys and staff to locate the defendants. *See, e.g., Hunter v. Nat'l*  
 15 *Relocation Van Lines*, No. 2:18-cv-00252-RFB-CWH, 2018 WL 3633918, at \*2 (D. Nev. July 31,  
 16 2018). As explained above, Plaintiffs have diligently attempted to locate and serve Sunday River  
 17 and its registered agents, officers and directors, by hiring a process server, searching public  
 18 records, and utilizing attorneys and staff. Accordingly, extension of time to serve Sunday River is  
 19 proper.

20       **IT IS HEREBY ORDERED** that Plaintiffs are permitted to serve Sunday River process  
 21 through the Nevada Secretary of State. To effectuate services, Plaintiffs must: (1) deliver a copy  
 22 of the summons and complaint to the Nevada Secretary of State or his or her deputy; and (2)  
 23 provide the Clerk of the United States District Court, District of Nevada with a copy of the  
 24 summons and complaint to post a copy in the Clerk's Office. *See* Nev. R. Civ. P. 4.2(c)(3)(B)(i)-  
 25 (ii).

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28       ///

**IT IS ALSO ORDERED** that the time to serve the summons and complaint is hereby enlarged. Plaintiffs will have until March 26, 2025, to effectuate service on Defendant.

DATED this 30th day of December, 2024.

Elyna J. Zouchah  
UNITED STATES MAGISTRATE JUDGE

Respectfully submitted by:

## BROWNSTEIN HYATT FARBER SCHRECK, LLP

/s/ William D. Nobriga  
Christopher M. Humes, Esq., Nevada Bar No. 12782  
William D. Nobriga, Esq., Nevada Bar No. 14931  
100 North City Parkway, Suite 1600  
Las Vegas, Nevada 89106-4614  
Telephone: 702.382.2101  
Facsimile: 702.382.8135  
Attorneys for Plaintiffs